

## **Overview of the Panel Formation Process at the EPA Science Advisory Board**

### **A. Introduction to this Booklet**

This booklet provides a general introduction to the U.S. Environmental Protection Agency Science Advisory Board (SAB) and one key part of its advisory process: forming advisory panels and making decisions about conflict of interest and balance among panelists. Although each SAB project is different, the process of panel formation follows the same basic steps.

The SAB also plans to develop companion booklets that will give an overview of the other key steps in the advisory process, such as choosing projects; panel deliberations and report writing; the respective roles of the Executive Committee, standing committees, and special panels; the role of the SAB Staff; and communication.

The Board plans to provide more detailed information on each of those topics. It is planning to develop more detailed information for panel chairs; members of the public interested in participating in the SAB advisory process; and Agency staff interested in working with the SAB on topics of special interest to them.

### **B. About the U.S. Environmental Protection Science Advisory Board**

The SAB has played a unique role in environmental protection for more than twenty-five years. Congress authorized it to provide independent advice and peer review to EPA's Administrator and the Congress on the scientific and technical aspects of environmental problems and issues.

The Board focuses on technical issues, not policy issues; risk assessment and engineering issues, not risk management decisions; the adequacy of the scientific foundation on which an Agency position (e.g., a regulatory standard) is built, not the position itself. The SAB recognizes the Agency's need to make environmental policy, risk management, and regulatory decisions but does not advise the Agency on them. It does not advise the Agency on those decisions directly. Instead it limits its advice to the scientific and technical underpinnings on which those decisions rest. Where the Board's advice does touch on policy issues, it takes special care to note and differentiate those instances. The Board also takes care to note when its advice addresses issues beyond those identified in the Agency's charge to a panel.

The Board strives to produce advice that is technically and scientifically sound, independent, balanced, and useful to the Agency. All the processes and procedures the SAB uses, from the choice of members for panels, to choice of projects, to involvement of the public, to development of reports aim to achieve these goals.

The scope of the Board is potentially as wide as all of the scientific and technical issues associated with environmental problems. To guide the Board's activities and set priorities, the SAB's Executive Committee described the Board's mission as making "a positive difference in the production and use of science" at EPA.<sup>1</sup> The Board is guided by this mission statement as it works with the Agency to set priorities for the Board's work. The SAB seeks to work cooperatively with the Agency to support its mission and goals, while maintaining the independence necessary to provide the Agency information, knowledge, and critical advice in a credible manner. This relationship has been described as "operating at arm's length from the Agency," and the SAB's being "*in* the Agency but not *of* the Agency."<sup>2</sup>

The Board provides advice in a variety of ways. It issues written peer review "Reports" of Agency documents. It writes "Advisories," when it has reviewed Agency works-in-progress. It initiates "Commentaries" or more extensive original reports on topics that it believes are important to environmental protection. It provides the Agency an opportunity for "Consultations" at the earliest stages of development of a project to gain insights from independent Members and Consultants. Finally, it hosts "Workshops" on important scientific issues, in which the Board itself does not provide advice, but instead sponsors meetings where the Agency can be stimulated by the work of highly qualified technical people.

The SAB currently consists of 10 standing committees, whose activities are coordinated by an Executive Committee. Two of the committees, the Clean Air Scientific Advisory Committee (CASAC), and the Advisory Council on Clean Air Compliance Analysis, (the Council) are separately chartered and report directly to the Administrator. All of the other Committees report to the Administrator through the SAB's Executive Committee.

**The SAB's Ten Standing Committees Whose Activities  
are Coordinated by the SAB Executive Committee (EC)**

Advisory Council on Clean Air Compliance Analysis (Council)  
Clean Air Scientific Advisory Committee (CASAC)  
Drinking Water Committee (DWC)  
Ecological Processes and Effects Committee (EPEC)  
Environmental Economics Advisory Committee (EEAC)  
Environmental Engineering Committee (EEC)  
Environmental Health Committee (EHC)  
Integrated Human Exposure Committee (IHEC)  
Radiation Advisory Committee (RAC)  
Research Strategies Advisory Committee (RSAC)

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<sup>1</sup> Science Advisory Board 1997 Strategic Plan (EPA-SAB-98-010), p.7.

<sup>2</sup>Dr. Donald Barnes, personal communications, 2000-2002.

In addition to the 100-plus SAB Members who are appointed generally to two-year terms by the Administrator, the Board enlists *ad hoc* Consultants to bring focused expertise to bear on particular issues that come before the Board. There are currently more than 300 SAB Consultants, who are appointed to one-year, renewable terms by the SAB Staff Director.

The EPA SAB is a federal advisory committee, subject to the Federal Advisory Committee Act provisions that require membership of the advisory committee to: 1) be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee, and 2) ensure contemporaneous public access and public input into the advisory process.

The Members and Consultants of the Board serve as Special Government Employees, who are subject to the provisions of the Ethics in Government Act of 1978.

**C. The Panel Formation Process, Including Consideration of Conflict of Interest and Balance Among Panelists**

The advice provided by the SAB either is developed by *ad hoc* panels established to address specific topics or by standing committees augmented, if necessary, with special expertise provided by SAB consultants. EPA's SAB Staff is responsible for forming expert panels.

The SAB Staff works to ensure that the process of panel formation complies with the requirements of the Federal Advisory Committee Act and the Ethics in Government Act; that it is transparent to the public, so the public can understand and participate in the process; and that it succeeds in assembling the experts needed to provide the Agency with scientific and technical advice.

The SAB Staff has adopted a process that will inform the public about each panel as it is being formed. This process informs and involves the public in a step-by-step process, as outlined in the diagram below.

### Stages in Panel Formation at EPA's Science Advisory Board



**Kickoff:** SAB Staff works with the Agency and SAB Leadership to understand “What expertise is needed to address the charge?”



**Widecast:** SAB Staff asks: “Who should be considered for the panel?” They solicit nominations from SAB Members and Consultants and the public.



**Short List:** SAB Staff works with SAB leadership to determine: “Which candidates should we consider in greater detail for service on the panel?” The Staff also gathers additional information about the candidates (including confidential information from the candidates about financial conflict of interest). They also ask the public for information that will help during the Panel Selection Phase.



**Panel Selection:** SAB Staff determines and documents: “Who will serve on the panel?”

The goal of the panel formation process is to assemble an appropriate panel of experts to provide sound, independent, balanced, and useful scientific and technical advice. The formation of an SAB panel begins in the “**Kickoff**” stage, in which the EPA Executive Committee and the SAB Staff decides to begin a project that has a well-developed charge. The charge to the Board, which will guide - but not confine - the work of a panel, is the formal statement of the questions posed to the Board. This statement generally defines the scope, problems, and issues the panel will address. The charge needs to be sufficiently detailed that it is clear what kinds of experts are needed.

Expertise, knowledge, and experience are the primary factors that determine whether an individual is invited to serve on an SAB Panel. In forming panels to provide expert advice, SAB Staff, as required by the Ethics in Government Act of 1978, also works to screen candidates for conflicts of interest and appearance of lack of impartiality. If a conflict exists between a panel candidate's private financial interests and activities and public responsibilities as a panel member, or even if there is the appearance of partiality, as defined by federal ethics regulations, the SAB Staff will, as a rule, seek to obtain the needed expertise from another individual. In rare cases, when a candidate panel member possesses special knowledge or skills, the SAB Staff Director, in consultation with SAB leadership, can grant a waiver that will allow an individual to serve on a panel, if it is determined that the participation of the individual is so vital as to outweigh the conflict of interest. The waiver is a matter of public record at the time of the panel meeting.

In addition to concerns about conflicts that may exist for individual members of a Panel, the SAB is also concerned about overall balance of the panel in terms of the points of view presented, as mandated by the Federal Advisory Committee Act. At the SAB, a balanced panel is characterized by inclusion of the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors can be influenced by work history and affiliation), and the collective breadth of experience to address the charge adequately. The SAB is a technical advisory body, not a committee designed to reflect stakeholder view. Hence, balancing membership is driven by a number of factors.

Recognizing that it is important to inform and involve the public in the process of panel formation, the SAB has adopted specific procedures to identify candidates with the needed expertise, avoid conflicts of interest, and achieve appropriate balance.

The **“Widecast”** phase includes an opportunity for the public to nominate potential panel members. This request aims to gain public assistance in broadening the pool of experts from whom panel members will be drawn.

In the **“Short List”** phase, SAB Staff, using established criteria, screens “Widecast candidates” to identify a “short list “ of potential panel members.

#### **Criteria to Be Used in Evaluating an Individual Panelist**

1. Expertise, knowledge, and experience (primary factors)
2. Availability and willingness to serve
3. Scientific credibility and impartiality
4. Skills working in committees and advisory panels

SAB Staff confers with candidates and search independently for background information on them to understand their qualifications and points of view.

To be considered for selection on a panel, each “Short List” candidate is required, during the “Short List” phase, to submit a “Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency.” On that form the prospective panelist lists all professional, consulting, and financial connections, including research funding. Candidates also describe any reasons their impartiality in the matter being addressed might be questioned. SAB Staff reviews the confidential form in detail and confers with candidates to understand any potential conflict of interests that might arise.

An important part of the "Short List" phase is public involvement. The SAB Staff publishes the names and biosketches of "Short List" candidates on the SAB Website. The SAB

Staff asks the public to provide the Board with information, analysis, or documentation that the Board should consider in evaluating candidates. This information plays an important part in determining the panel members chosen during the “Panel Selection” Phase.

The SAB Staff Director, in consultation with SAB leadership, as appropriate, makes the final decision about who will serve on the panel in the “**Panel Selection**” Phase. In that phase, SAB Staff completes its review of information regarding conflicts of interest, appearance of impartiality, and appropriate balance and breadth needed to address the charge. They review all the information provided by candidates, along with any other information that the public may provide in response to the posting of information about the prospective panel on the SAB website during the “Short List Phase,” and information gathered by SAB Staff independently on the background of each candidate. SAB Staff documents the rationale underlying the selection of each panel in a “Panel Selection” document.

The SAB’s process for panel formation has been designed for three purposes: to help the Board meet EPA’s legal requirements; to be transparent and open to public input, so that the public can understand and participate in the process; and to help the Board fulfill its mission. The Board can only fulfill its mission by assembling panels of individuals who will provide useful, timely advice that is technically and scientifically sound, independent, and balanced. The SAB will continue to refine details of the panel formation process over time, based on the advice of its Executive Committee, the Agency, and members of the public interested in the Board and its work.